



## 47 CFR Part 54

[WC Docket No. 21-450; FCC 23-15; FRS 134199]

### Affordable Connectivity Program

**AGENCY:** Federal Communications Commission.

**ACTION:** Final order.

**SUMMARY:** In the Fifth Report and Order, the Federal Communications Commission (Commission or FCC) offers an additional funding opportunity of up to \$10 million for the National Competitive Outreach Grant Program (NCOP) and the Tribal Competitive Outreach Grant Program (TCOP), which are components of the Affordable Connectivity Outreach Grant Program (Outreach Grant Program).

**DATES:** Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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**SUPPLEMENTARY INFORMATION:** This is a synopsis of the Commission's Fifth Report and Order (Order) in WC Docket No. 21-450, FCC 23-15, adopted on March 13, 2023 and released on March 15, 2023. The full text of this document is available at <https://docs.fcc.gov/public/attachments/FCC-23-15A1.pdf>.

## I. INTRODUCTION

1. In the Order, the Federal Communications Commission (Commission) directs the Consumer and Governmental Affairs Bureau (Bureau) to offer an additional funding opportunity of up to \$10 million for the National Competitive Outreach Grant Program (NCOP) and the Tribal Competitive Outreach Grant Program (TCOP), which are components of the Affordable Connectivity Outreach Grant Program (Outreach Grant Program). This maximum of \$10 million will come from a combination of: (a) unspent funding – funding previously allocated to the Outreach Grant Program but not awarded; and (b) unobligated funding – funding from the \$100 million Affordable Connectivity Program (ACP) outreach budget that the Commission has not yet allocated to specific outreach efforts. The Commission directs the Bureau to issue a Notice of Funding Opportunity (NOFO) to initiate the application process for this additional funding.

2. The ACP plays an integral role in helping to bridge the digital divide, which remains a top priority for the Commission. As part of its efforts to encourage participation in the ACP, the Commission established the Outreach Grant Program in order to engage with partners around the country to help inform ACP-eligible households about the program in their local communities, with funding and resources to support such outreach and community engagement. The extensive demand for ACP outreach funding so far underscores the need for these funds and the importance of reaching the eligible households that have not yet enrolled in the ACP. This new funding opportunity for ACP outreach is intended to provide additional funding awards beyond the outreach grant awards announced by the Commission on March 10, 2023. Directing the Bureau to offer an additional outreach grant funding opportunity will allow additional eligible entities to receive grant awards to conduct this necessary outreach to increase participation among those Americans most in need of affordable connectivity.

3. Pursuant to the authority provided to the Commission in the Infrastructure Investment and Jobs Act (Infrastructure Act), Public Law No. 117-58, sec. 60502(a)(3), 135 Stat. 429, 1240 (2021), the Commission previously designated up to \$100 million for all ACP outreach. Out of this \$100 million, the Commission directed the Bureau in August 2022 to designate up to \$60 million to be competitively allocated to eligible entities and to also designate a minimum of \$10 million for grants specifically for ACP outreach to persons who live on qualifying Tribal lands. In November 2022, consistent with the Commission's funding designations, the Bureau issued a NOFO for up to \$60 million for NCOP and a minimum of \$10 million for TCOP. Hundreds of applicants applied for these programs, and the demand for national competitive grant funding exceeded the \$60 million budget for this program.

4. To expand the number of entities raising awareness of the ACP with the goal of increasing enrollments among eligible households, the Commission directs the Bureau to offer an additional funding opportunity for NCOP and TCOP totaling up to \$10 million, to be distributed among each program equally insofar as possible. The additional funding for this funding opportunity will come from unspent Outreach Grant Program funding and ACP outreach funding not previously designated for specific ACP outreach activities, such that total funding including this additional NOFO does not exceed the \$100 million previously designated for all ACP outreach in the Affordable Connectivity Program Order (*ACP Order*, 87 FR 8346, February 14, 2022). This approach carefully balances the demand for

additional grant funding with the importance of maintaining fiscal responsibility of the ACP by staying within the \$100 million budget the Commission established for all ACP outreach. The Bureau will continue to have the delegated authority outlined in the *Second ACP Order*, 87 FR 54311, September 6, 2022, in coordination with the Wireline Competition Bureau (WCB), the Office of the General Counsel (OGC), and the Office of the Managing Director (OMD) as appropriate, to develop, administer, and manage the Outreach Grant Program.

## II. DISCUSSION

5. The overwhelming response to the Outreach Grant Program convinces the Commission that it is appropriate to issue a new funding opportunity for NCOP and TCOP, to be distributed equally between the programs to the extent feasible. This necessarily means raising the \$60 million upper limit on funding for NCOP. Therefore, the Commission directs the Bureau to release another funding opportunity for up to \$10 million, with the funding to come from unspent Outreach Grant Program funding and funding from the \$100 million ACP outreach budget not already obligated for specific outreach activities. The Commission also directs the Bureau to issue a NOFO to solicit applications for this additional funding opportunity.

6. *Allocation of Funds.* Due to the demand for outreach grant funding above the \$60 million cap for NCOP set forth in the *Second ACP Order* and NOFO for that program, and due to the continued pressing need for outreach to persons on qualifying Tribal lands, the Commission directs the Bureau to offer a funding opportunity of up to a combined total of \$10 million for NCOP and TCOP. For this funding opportunity, the Commission directs the Bureau to use funding from: (a) the \$100 million ACP outreach budget that has not been obligated to other ACP outreach activities, such as funds available for the FCC's own ACP outreach, and (b) any unspent Outreach Grant Program funding, i.e., funding not awarded through the initial notices of funding opportunity for the Outreach Grant Program. Although the Commission intends for the Bureau to divide the maximum of \$10 million equally between NCOP and TCOP (e.g., \$5 million per program), if the amount that will be awarded to applicants to either program is less than \$5 million, the Commission authorizes the Bureau to transfer the balance from one program to the other, notwithstanding any funding minimums established in the *Second ACP Order* or this Order.

7. The funding requested by grant applicants in response to the NOFO for the National Competitive Outreach Grant Program supports the Commission's decision to make available more funding for competitive grants to allow additional trusted outreach partners to increase awareness of and encourage enrollment in the ACP. The Commission established the Outreach Grant Program to provide a range of outreach partners with funding and resources in an effort to help inform households about the ACP and thus increase participation among those Americans most in need of affordable broadband connectivity. The Commission designated funds to the Outreach Grant Program, including the \$60 million maximum for competitive allocation, with the "expect[ation] that the allocated budget . . . will support extensive, meaningful outreach by numerous eligible outreach partners." As made apparent by the overwhelming response to the Commission's initial Outreach Grant Program funding opportunity, the need for extensive, meaningful ACP outreach has not diminished. Consequently, the Commission raises the \$60 million funding cap for NCOP and directs the Bureau to offer a new funding opportunity for this program.

8. The Commission also directs the Bureau to make that funding opportunity available for TCOP. ACP outreach to persons on qualifying Tribal lands is a Commission priority, and an additional funding opportunity for TCOP will facilitate this vital outreach. The Commission's intent is to maximize the number of entities conducting ACP outreach to residents on qualifying Tribal lands, and the Commission thus directs the Bureau to make eligible Tribal governments and Tribal organizations aware of this funding opportunity and how to apply for it, including but not limited to by providing information sessions tailored to prospective Tribal applicants during the TCOP application window and highlighting changes in the NOFO from the initial NOFO for the Tribal program.

9. The Commission declines at this time, however, to increase the \$100 million budget for all ACP outreach established in the ACP Order and reaffirmed in the *Second ACP Order*. That budget balances the anticipated need for extensive ACP outreach with the responsibility to ensure that ample funds remain to provide the ACP benefit to qualifying households for as long as possible. Therefore, the funding opportunity established in the Order will not result in any changes to this \$100 million figure.

10. *Additional Notice of Funding Opportunity.* The Commission directs the Bureau to issue a NOFO for the NCOP and TCOP funding designated in the Order. The notice will provide detailed

information including the entities eligible for the funding, fundable expenses and activities, application and evaluation processes, reporting requirements, and other rules and requirements for the funding. The Commission further directs the Bureau to limit the additional funding opportunity designated in the Order to entities that do not receive funding from the first round of disbursements in the Outreach Grant Program, including as a pass-through entity or subrecipient. Expanding the number of entities performing ACP outreach will increase the likelihood of contacting consumers not reached by existing efforts.

11. Except as expressly set forth in the Order, the new NOFO and awards remain subject to the statutes, regulations, directives, and guidance discussed, promulgated, or otherwise set forth in the *Second ACP Order*. In that order, the Commission established the goal and objectives of the Outreach Grant Program; provided examples of types of eligible entities and types of outreach activities and expenses that could be considered for funding; allocated funding set-asides for specific types of grantees; established important safeguards to promote program integrity and guard against potential waste, fraud, and abuse; adopted and implemented grant regulations; directed the Bureau to develop, manage, and administer the Outreach Grant Program; provided guidance and regulatory requirements for the framework of the Outreach Grant Program; and addressed other requirements and administrative aspects of the program. The Commission believes that these parameters, except to the extent expressly deviated from in the Order, provide the necessary structure and guidelines for this additional round of Outreach Grant Program available funding, consistent with the Commission's authority under applicable federal statutes and regulations.

12. The Commission emphasizes that the Bureau retains the authority granted in the *Second ACP Order* to administer the Outreach Grant Program in a cost-effective manner. This includes the authority to limit the types of entities that may be eligible for a particular notice of funding opportunity; to prioritize certain types of applications; to revise allowable costs and cap certain expenses; to tailor the grant application process templates or submission windows to accommodate different types of grants or funding opportunities; and to educate prospective applicants about the grant program and the application process.

13. For instance, to ensure the most efficient use and distribution of additional NCOP

funding, the Bureau could, informed by previous experience with the Outreach Grant Program, limit the categories of eligible entities for this additional funding opportunity to the types of entities that would best maximize the reach, impact, and effectiveness of the additional NCOP funding. The Bureau could likewise limit the entities eligible for TCOP under the funding opportunity established by the Order. The Bureau could also limit the number of subrecipients permissible for an applicant applying as a pass-through entity or shorten or lengthen any application window to ensure efficient administration of the NOFO or otherwise meet the needs of a particular funding opportunity. Additionally, the Commission emphasizes that the Bureau may, prior to issuing a NOFO, conduct grant workshops and targeted outreach about the grant program to encourage quality grant applications.

14. Further, because there has already been one opportunity for eligible entities to apply for national competitive grants, for this funding opportunity the Bureau is not bound by the minimum allocation for States and Territories set forth in the *Second ACP Order*, and the Bureau need not consider such allocations in developing this new funding opportunity. Nor is the Bureau, for this new funding opportunity, necessarily required to ensure that future NCOP awards be made to “diverse geographic regions and entity sizes or types.”

### **III. PROCEDURAL MATTERS**

15. *Paperwork Reduction Act.* Pursuant to section 1752(h) of the Infrastructure Act, the collection of information sponsored or conducted under the regulations promulgated in the Fifth Report and Order is deemed not to constitute a collection of information for the purposes of the Paperwork Reduction Act, 44 U.S.C. 3501-3521.

16. *Congressional Review Act.* The Commission has determined, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget concurs, that this rule is “non-major” under the Congressional Review Act, 5 U.S.C. 804(2). The Commission will send a copy of the Fifth Report & Order, to Congress and the Government Accountability Office pursuant to 5 U.S.C. 801(a)(1)(A).

### **IV. ORDERING CLAUSES**

17. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Section 904 of Division N, Title IX of the Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, 134 Stat. 1182,

as amended by section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, Pub. L. No. 117-58, 135 Stat. 429 (2021), and the authority contained in sections 1, 4(i), and 5(c) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 155(c), 1752, and the authority contained section 60502 of Division F, Title V of the Infrastructure Investment and Jobs Act, 47 U.S.C. 1752(b)(10)(C), the Fifth Report and Order IS ADOPTED.

18. IT IS FURTHER ORDERED that the Fifth Report and Order SHALL BE EFFECTIVE  
**[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER],**

FEDERAL COMMUNICATIONS COMMISSION

Marlene Dortch,  
Secretary.